

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CRAIG CUNNINGHAM,

Plaintiff,

v.

MICHAEL MONTES, Tollfreezone.com, Inc.,
Mydataguys.com, LLC, Podmusicgear.com, Inc.,
Tollfreezone.com, Inc., dba Docauditor.com,
Tollfreezone.com, Inc., dba Mobile Trackme,
Emailmyvmail.Com, Inc., and John and Jane Does 1-10,

Case No. 16-cv-761

Defendants.

**DEFENDANTS' MOTION FOR RELEASE OF FROZEN FUNDS
AND RESPONSE TO SHOW CAUSE ORDER DATED JULY 19, 2017**

NOW COME, Defendants, and move the Court for release of specific funds from the Wells Fargo accounts ordered frozen by the Court's July 18, 2017 order. Further, in response to the Court's show cause order of July 19, 2017, Defendants request the Court not order the payment of the amount of the judgment to the Court's registry. In support of their position, Defendants submit the separately filed Declaration of Michael Montes and state as follows:

Motion for Release of Frozen Funds

1. On July 18, 2017, the Court entered an Order freezing the bank accounts held by these Defendants at Wells Fargo. The Opinion preceding the Order provided that "Defendants may move to release funds upon a showing of necessity." [Dkt. #34].

2. Defendant Montes requests the Court enter an order permitting the monthly withdrawal of certain amounts for Montes' personal expenses. As explained in detail in Paragraphs 1 -2 of the accompanying Declaration of Michael Montes, the Wells Fargo account held in the

name of Tollfreezone.com, Inc., is used as Michael Montes' personal account. Accordingly, he needs access to the funds in the account to pay everyday living expenses.

3. Defendants request the Court enter an order permitting the monthly withdrawal of certain amounts for the business expenses of Tollfreezone.com, Inc. As explained in detail in Paragraphs 3-4 of the accompanying Declaration of Michael Montes, Tollfreezone.com requires the monthly payment of certain necessary expenses to continue the business in operation.

4. Defendants request the Court enter an order permitting a one-time withdrawal of funds to make payment of litigation expenses incurred in the present lawsuit and the lawsuits filed by the Plaintiff in the United States District Court for the Middle District of Tennessee. This request is supported by Paragraph 5 of the accompanying Declaration of Michael Montes.

Response to Show Cause Order Dated July 19, 2017

5. By an Order dated July 19, 2017, the Court held: "By July 31, 2017, defendants must show cause as to why the court should not order them to deposit the amount of the judgment into the court's registry." [Dkt. #39].

6. As set forth in the accompany Declaration, Michael Montes attests that the Defendants do not have sufficient funds to make payment of the judgment amount to the Court's registry. While the business of Defendants generates significant revenue, it only does so with the regularly monthly payment of significant expenses.

Dated this 31st day of July, 2017.

AXLEY BRYNELSON, LLP

/s/ Kevin D. Trost

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